THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17198 of 2006

Dated:25.08.2006

Between:

Veeranna and others.

…Petitioners

and

Joint Collector and others.

…Respondents

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.17198 of 2006

ORDER:

The fourth respondent herein was granted Occupancy Rights Certificate (ORC) under Section 10 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short 'the Act') by proceedings dated 31.08.1977. The petitioners, who claim themselves to be the joint protected tenants entitled for such Certificate under Section 7 of the Act, filed an appeal under Section 24 of the Act before the Joint Collector. The same was dismissed. Assailing the same, they filed W.P.No.19481 of 1993. The learned Single Judge dismissed the same on 11.11.1997. A Division Bench in W.A.No.126 of 1998 dated 12.02.2001, however, set aside the proceedings of the second respondent dated 31.08.1977 and remanded the matter to the second respondent to enquire afresh and pass orders. Thereafter, the second respondent again conducted enquiry. By proceedings dated 24.05.2004 bearing File No.A3/966/2001, the second respondent again came to the conclusion that the fourth respondent alone is the protected tenant and occupant of the land in Survey No.48 admeasuring Acs.13.04 guntas situated at Mortaga Village of Raikode Mandal in Medak District. Feeling aggrieved by the same, the petitioners yet again preferred an appeal under Section 24 of the Act before the first respondent. The same, being Case No.F3/4877/04-

F3/23/Inam/04, was rejected by order, dated 17.04.2006. This is assailed in the Writ Petition.

At the stage of admission itself, the fourth respondent is represented by the Counsel, who filed caveat. Therefore, the matter was heard finally.

The learned Counsel for the petitioners strenuously contends that the petitioners produced abundant evidence before the primary authority as well the appellate authority to show that their predecessors were also protected tenants as per the P.T.Register and Khasra pahanies, but respondents 1 and 2 did not look into the evidence and passed orders which is illegal and arbitrary. **Per contra**, the learned Assistant Government Pleader for Revenue (General) and the learned Counsel for the fourth respondent after taking this Court through the orders passed by the Revenue Divisional Officer as well as the Joint Collector submit that after verifying the records, it was found that the name of the father of the fourth respondent alone was shown as protected tenant, and therefore, the orders are sustainable.

After remand, during the enquiry, the Revenue Divisional Officer, the second respondent herein, verified P.T.Register and the Khasra pahanies for the year 1954-1955. In relation to this, the findings recorded by the Revenue Divisional Officer are as under.

> On perusal of original Khasra pahani for the year 1954-55 vithoba and Bapu are recorded as Tenants on Batai later Vithoba and Kistaiah are recorded as occupants till 1972-73 in some pahanies Vithoba S/o.Kistaiah is recorded as Tenants but as per enquiry report of M.R.O. Vithoba is not the s/o late Kistaiah as they are different persons and they are not possession as on crucial date 1.11.1973. The only name of Vittal Rao S/o.Bapu rao is recorded as pattedar and possessor for all the consequent related pahanies continuously it can be seen from the enquiry report and M.R.O records the petitioners and their ancestors claimed right over Sy.No.48 only in the year 1993 when the Government of Andhra Pradesh issued notification to acquire the part of the land for Singoor Project till then it is only respondent who is in actual possession of the land Sy.No.48 by recording his name as pattedar and possessor. From this it can be presumed that only to claim compensation the petitioners came forward to claim the right of tenancy but they never aware of such right. All the records support the claim of respondent only. There are no records to hold that the ancestors of the petitioners ever continued in possession of the land Sy.No.48 as tenants.

From the two documents, namely the P.T.Register and the Khasra pahanies, the Revenue Divisional Officer has come to the

correct conclusion that the request of the petitioners to declare them as legal heirs of original tenants cannot be considered, because Vithoba and Kistaiah are two different persons and their names were not found in the Khasra pahanies, though in some pahanies Vithoba's name was found. It was also found that as on 01.11.1973 it was only Bapu Rao, the father of the fourth respondent, who was recorded as pattadar and possessor, and therefore, under Section 10 of the Act, he alone is entitled for ORC. The Joint Collector while considering the revision petition again found that the petitioners started agitating the matter twenty years after the issuance of ORC in favour of the fourth respondent and that the findings recorded by the Revenue Divisional Officer are based on the records. The questions that were decided by the second respondent as primary authority and the first respondent as appellate authority are questions of facts based on the records. Both the authorities have appreciated the facts and applied correct law in coming to the conclusion that the father of the fourth respondent was alone in occupation as on the date of vesting. Therefore, the Writ Petition for a writ of certiorari cannot be entertained. The impugned orders of the Joint Collector confirming the order of the second respondent does not suffer from any error, much less, grave error requiring interference of this Court.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

25.08.2006
vs